

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FREDERICK P. FUSCO and U.S. POSTAL SERVICE,
POST OFFICE, Schenectady, NY

*Docket No. 00-1829; Submitted on the Record;
Issued June 6, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an emotional condition in the performance of duty.

On April 27, 1999 appellant, then a 50-year-old letter carrier, filed a claim for irritable bowel syndrome related to job stress. Appellant stopped work on April 9, 1999. In a statement prepared for him by his wife, appellant contended that this condition was caused by the employing establishment knowing it was going to disband his route in October 1998, and not telling him what duties or hours he would work, either before or after his route was disbanded.

In a letter dated August 16, 1999, the employing establishment stated that a street examination of appellant's route was done on December 9, 1998, and that it looked like appellant, as the least senior carrier in his zone, would have his route eliminated. The employing establishment stated that appellant was advised that "in no way was his salary, benefits, or schedule going to be affected. I explained that if his route were eliminated he would become an unassigned regular carrier at the [m]ain [o]ffice. He would have the right to bid any open routes throughout Schenectady, but could also remain in the capacity of an unassigned regular if he chose."

By decision dated August 30, 1999, the Office found that appellant's fear of losing his job or his preference to work in another job was not compensable and was considered self-generated. By letter dated October 21, 1999, appellant requested reconsideration, contending that everyone knew before December 1998 that his route would be eliminated. Appellant submitted evidence to support this contention. By decision dated January 5, 2000, the Office found that the additional evidence was not sufficient to warrant modification of its prior decision. By letter dated January 24, 2000, appellant requested reconsideration. By decision dated March 27, 2000, the Office found that the additional evidence was not sufficient to warrant modification of its prior decision.

The Board finds that appellant did not sustain an emotional condition in the performance of duty.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Federal Employees' Compensation Act. On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-in-force or his frustration from not being permitted to work in a particular environment or to hold a particular position.¹ Although the assignment of job duties is generally related to the employment, it is an administrative function of the employer, and not a duty of the employee. However, the Board has also found that an administrative or personnel matter will be considered to be an employment factor where the evidence discloses error or abuse on the part of the employing establishment. In determining whether the employing establishment erred or acted abusively, the Board has examined whether the employing establishment acted reasonably.²

Whether it is viewed as frustration from not being able to hold a particular position or as a reaction to an assignment of work by the employing establishment, appellant's reaction to the elimination of his postal route and his reassignment to a position as an unassigned regular carrier is not covered under the Act. There is no evidence that the employing establishment acted unreasonably in the elimination of the route, in its reassignment of appellant to other duties or in the timing of its notification to appellant of the change. Appellant has not attributed his condition to a compensable factor of employment.

The decisions of the Office of Workers' Compensation Programs dated March 27 and January 5, 2000, and August 30, 1999 are affirmed.

Dated, Washington, DC
June 6, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Member

¹ *Lillian Cutler*, 28 ECAB 125 (1976).

² *Anna C. Leanza*, 48 ECAB 115 (1996); *Jimmy Gilbreath*, 44 ECAB 555 (1993).